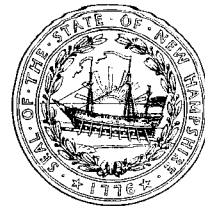




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 12, 2006

CERTIFIED MAIL
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RETURN RECEIPT REQUESTED

LETTER OF DEFICIENCY
No. WMD 06-001

Wal-Mart Stores East LP
508 SW 8th Street
Bentonville, AR 72712-0505

Attn: Jamie Huens, Environmental Manager

Re: Wal-Mart Store #2681
Littleton, New Hampshire
EPA ID No. NHD510005911

Dear Mr. Huens:

On August 4, 2005, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Wal-Mart #2681 in Littleton, New Hampshire ("Wal-Mart"). The purpose of the inspection was to determine Wal-Mart's compliance status relative to requirements under RSA Ch. 147-A and the New Hampshire Hazardous Waste Rules, Env-Wm 100-1100 ("Rules").

The inspection was conducted following a reported hazardous waste discharge which occurred at Wal-Mart on February 26, 2005. At the time of the inspection, DES inspectors documented the following events with regard to the hazardous waste discharge:

On March 1, 2005, the Department of Environmental Services, Water Division was notified by the Littleton Waste Water Treatment Facility ("WWTF") and Wal-Mart #2681 that an employee of Wal-Mart, Littleton, NH, dumped nine (9) twelve ounce cans of STP Fuel Cleaner ("STP") down the sink drain on February 26, 2005. The WWTF sampled Wal-Mart's pump station and verified that the STP was floating on the surface of the wastewater in the pump station.

On March 11, 2005, DES received a copy of the Material Safety Data Sheet ("MSDS") for the STP from Aquarion Services Company ("Aquarion"), a contractor hired by Wal-Mart. The MSDS states that as a waste material the STP is, "a RCRA hazardous waste due to ignitibility."

On March 16, 2005, DES received an incident report and documentation from Aquarion that the STP contaminated wastewater (950-gallons) had been removed from the pump station by Environmental Products & Services of Vermont ("Environmental Products"), the contractor hired by Wal-Mart to clean-up the STP. The information provided to DES by Aquarion indicates that an ignitable characteristic hazardous waste (D001) was discharged to the environment.

As a result of the inspection, the following deficiencies in Wal-Mart's hazardous waste management program were documented:

1. RSA 147-A:4, I/Env-Wm 353.01 – Disposal of Hazardous Waste

At the time of the inspection, DES determined that Wal-Mart disposed of nine (9) twelve ounce cans of STP down a sink to the Littleton WWTF on February 26, 2005.

RSA 147-A:4, I, requires any person operating a hazardous waste facility to first obtain a permit from DES.

Env-Wm 353.01 specifies that an operator can obtain a hazardous waste disposal permit through DES provided the conditions specified in Env-Wm 353 are met.

DES has no record of receiving a hazardous waste disposal permit application from Wal-Mart to discharge the hazardous waste, specifically STP into the Littleton WWTF, and no such permit has been issued.

Wal-Mart will need to cease the disposal on all hazardous waste unless specifically permitted by DES under Env-Wm 300.

In a letter dated March 14, 2005, Aquarion stated that Wal-Mart had posted a sign above the sink noting that chemicals can not be poured down the drain. At the time of the inspection, DES inspectors also documented that the improper disposal of hazardous waste has ceased and Wal-Mart has taken actions such as re-training employees, hiring a weekend claims clerk, and posting signs which prohibits the dumping of chemicals down the sink. No further action is required.

2. Env-Wm 502.01 –Hazardous Waste Determination

At the time of the inspection, no formal hazardous waste determination had been performed on the nine (9) twelve ounce cans of STP.

Env-Wm 502.01 requires all generators of a waste to determine if that waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Rules.

Wal-Mart will need to submit a written hazardous waste determination for its expired, damaged or returned products which are not continued to be used as a product or sold to customers as a product. Wal-Mart must ensure that all damaged products, which are regulated as hazardous waste, be managed in accordance with the applicable Rules. To the extent that any expired, damaged or returned products are to be discarded (i.e., a "waste"), and are listed or characteristic hazardous wastes, then Wal-Mart would be subject to the applicable small quantity generator standards under Env-Wm 508 or the full quantity generator standards under Env-Wm 509. Hazardous wastes which are to be recycled are subject to the requirements of Env-Wm 800. Wal-Mart may also provide a

documentation of claims under Env-Wm 803.05 that a certain recycled material is not a waste or is exempt from regulation under the Rules.

3. Env-Wm 513.01(a) – Reporting of Hazardous Waste Discharges

Env-Wm 513.01(a) requires that hazardous waste generators immediately report to DES, within one hour of discovery, any discharge of hazardous waste or any discharge of a material which when discharged, becomes a hazardous waste that poses a threat to human health or the environment. Hazardous waste discharges into storm or sanitary sewers, onto the land or into the air, groundwater or surface waters are required to be reported to DES.

Wal-Mart will need to ensure that any future hazardous waste releases are immediately reported to DES, Waste Management Division at (603) 271-3899, Monday through Friday, 8 a.m. to 4 p.m. or the New Hampshire Department of Safety at 1-800-346-4009 at any other time; and to the local emergency officials (i.e., fire department) in which the discharge occurs.

The release of the STP to the drain occurred on February 26, 2005. Wal-Mart notified DES about the release on March 1, 2005. No further action is required.

4. Env-Wm 513.02 – Discharge Cleanup

Env-Wm 513.02(a) requires that, in the event of a hazardous waste discharge or any discharge of a material which when discharged becomes a hazardous waste, the generator shall immediately contain and cleanup the discharge. Env-Wm 513.02(b) further requires that, if the hazardous waste discharge cannot be cleaned up within 24 hours of the spill, the generator shall submit to DES's Waste Management Division, within five (5) days of the discharge, a clean up plan which details what actions the generator will take to prevent the discharge from presenting a hazard to human health or the environment.

Wal-Mart will need to ensure that any future hazardous waste discharges are immediately cleaned up within 24 hours of the spill, or that a clean up plan which details what actions Wal-Mart will take to prevent the discharge from presenting a hazard to human health is submitted to DES within 5 days of the discharge.

On March 2, 2005, Environmental Products removed 950-gallons of STP contaminated wastewater from the pump station. No further action required.

DES believes the remaining portion of the cited deficiencies (i.e., item 2 - hazardous waste determination) can be corrected and a report describing the corrective measures taken by Wal-Mart can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Wal-Mart including issuing an order requiring that the deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations determined as a result of this or subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Tammy Calligandes, Waste Management Specialist
DES/WMD
P.O. Box 95
Concord, NH 03302-0095

Enclosed you will find a copy of the completed Hazardous waste Generator Inspection Report which documents the compliance status of your facility at the time of the inspection. This report may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at (1-866) HAZ-WAST (in-state only) or (603) 271-2942.

Wal-Mart Stores East LP
Letter of Deficiency No. WMD 06-001
Page 5 of 5

Should you have any questions regarding this letter, please contact the lead inspector, Tammy Calligandes, or Tod Leedberg, RCRA Compliance Supervisor at 271-2942. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Duclos', is written over the word 'COPY'.

John J. Duclos, Administrator
Hazardous Waste Compliance Bureau
Waste Management Division

cc: DB/RCRA/LOD/Archives
Anthony P. Giunta, P.G., Director, WMD/ Paul L. Heritzler, P.G., Esq., Administrator, WMD
Gretchen Hamel, Administrator, DES Legal Unit
Daniel Hill, Store Manager, Wal-Mart #2681, Littleton, NH
Dawnangela Minton, Bernstein Shur, P.O. Box 1120, Manchester, NH 03105-1120

ec: JJD

enclosure: Hazardous Waste Generator Inspection Report